Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).

In the listing above, the "SU" designation means that rates listed under that identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

END OF GENERAL DECISION

EXHIBIT F

Schedule of Performance

Table 1: Preconstruction Milestones

Milestone	Agreement Section Reference	Responsibility	Date Complete
Contingency for S&W Key Contract Satisfied	5.5(j); 15.2(b)	Company	2/2/98
Contingency for Contracting Plan Satisfied	5.5(h); 15.2(b)	Company/S&W	3/1/98
Financing Contingency Satisfied	5.5(a); 15.2(b)	Company	4/1/98
Contingency for Liquidated Damages Re Performance Standards Satisfied	5.5(i); 15.2(b)	Company	4/1/98
Contingency for O,A&M Key Contract Satisfied	5.5(j); 15.2(b)	Company	4/1/98
Contingency for Equipment Vendor Key Contract Satisfied	5.5(j); 15.2(b)	Company/S&W	4/1/98
Contingency for O,A&M Plan Satisfied	5.5(g); 15.2(b)	Company	7/14/98
Plans And Specifications Contingency for Year 1 Construction Satisfied	5.5(d); 15.2(b)	Company/S&W	7/14/98
Substantially Complete TMC Design, Plans and Specifications for Year 1 Construction Satisfied	5.5(d); 15.2(b)	State/Company/S&W	Two months before Commencement of Construction
All Other Contingencies to Commencement of Construction Satisfied	5.5; 15.2(b)	Company/S&W	8/1/98

Table 2A: Construction Milestones

Milestone	Agreement Section Reference	Responsibility	Date Complete	Remarks
Commencement of Construction	5.5; 15.2(b)	Company/S&W	8/1/98	
Cutover Date for Year 1 Scope	6.3(d);10.6	Company/S&W	4/1/99	Date LDs Start
Cutover Date for Year 2 Scope	6.3(d);10.6	Company/S&W	4/1/00	Date LDs Start
Cutover Date for Year 3 Scope	6.3(d);10.6	Company/S&W	2/1/01	Date LDs Start
Deadline for Acceptance of all of Phase 1	15.2(b)	Company/S&W	6/30/01	

Table 2B: Construction Milestones (Assuming Maximum Force Majeure Extensions to 6/1/99 Occur Under Section 10.4(a)(vi) of Agreement)

Milestone	Agreement Section Reference	Responsibility	Date Complete	Remarks
Commencement of Construction	5.5; 15.2(b)	Company/S&W	6/1/99	
Cutover Date for Year 1 Scope	6.3(d);10.6	Company/S&W	4/1/00	Date LDs Start
Cutover Date for Year 2 Scope	6.3(d);10.6	Company/S&W	4/1/01	Date LDs Start
Cutover Date for Year 3 Scope	6.3(d);10.6	Company/S&W	2/1/02	Date LDs Start
Deadline for Acceptance of all of Phase 1	15.2(b)	Company/S&W	6/30/02	

Table 3: Other Preconstruction Milestones

Milestone	Agreement Section Reference	Responsibility	Date Complete
Deadline to Exercise Option for Phase 1 Optional Routes	5.11(a)	Company	12/31/99
Deadline to Complete Negotiation for Wireless Facilities	11.7	Company	4/30/98
Select List of Arbitrators for Design and Construction Claims	16.7(d)(i)	State/Company/S&W	60 Days after Agreement Date

Liquidated Damages

LIQUIDATED DAMAGE SCHEDULE FOR STATE OFFICE LIT CAPACITY MILESTONES (§16.3(a)(i))

Office	Agency	Air Miles to St. Paul	Monthly Connection Charge	One Time Hookup Fee ($1000)	Monthly Fee (see schedule)	Mileage Fee (Air miles x $67/mile)	LD PER OFFICE 1st MONTH	LD PER OFFICE PER SUBSEQUENT MONTH
Duluth	Mnet	135	$4,000	$1,000	$410	$9,045	$14,455	$13,455
Duluth	MnDOT	135	$4,000	$1,000	$410	$9,045	$14,455	$13,455
Minneapolis	Mnet	9	$4,000	$1,000	$350	$603	$5,953	$4,953
Minneapolis	MnDOT	9	$4,000	$1,000	$350	$603	$5,953	$4,953
Moorhead	Mnet	222	$4,000	$1,000	$410	$14,874	$20,284	$19,284
Owatonna	MnDOT	60	$4,000	$1,000	$410	$4,020	$9,430	$8,430
Rochester	Mnet	71	$4,000	$1,000	$410	$4,757	$10,167	$9,167
Rochester	MnDOT	71	$4,000	$1,000	$410	$4,757	$10,167	$9,167
St. Cloud	MnDOT	67	$4,000	$1,000	$410	$4,489	$9,899	$8,899
St. Cloud	Mnet	67	$4,000	$1,000	$410	$4,489	$9,899	$8,899
Bemidji	Mnet	194	$4,000	$1,000	$410	$12,998	$18,408	$17,408
Bemidji	MnDOT	194	$4,000	$1,000	$410	$12,998	$18,408	$17,408
Brainard	MnDOT	111	$4,000	$1,000	$410	$7,437	$12,847	$11,847
Brainard	Mnet	111	$4,000	$1,000	$410	$7,437	$12,847	$11,847
Crookston	MnDOT	257	$4,000	$1,000	$410	$17,219	$22,629	$21,629
Detroit Lakes	MnDOT	185	$4,000	$1,000	$410	$12,395	$17,805	$16,805
Golden Valley	MnDOT	15	$4,000	$1,000	$350	$1,005	$6,355	$5,355
Hibbing	Mnet	171	$4,000	$1,000	$410	$11,457	$16,867	$15,867
Mankato	Mnet	70	$4,000	$1,000	$410	$4,690	$10,100	$9,100
Mankato	MnDOT	70	$4,000	$1,000	$410	$4,690	$10,100	$9,100
Marshall	Mnet	137	$4,000	$1,000	$410	$9,179	$14,589	$13,589
Marshall	MnDOT	137	$4,000	$1,000	$410	$9,179	$14,589	$13,589

Morris	MnDOT	145	$4,000	$1,000	$410	$9,715	$15,125	$14,125
Oakdale	MnDOT	8	$4,000	$1,000	$310	$536	$5,846	$4,846
Roseville	MnDOT	8	$4,000	$1,000	$310	$536	$5,846	$4,846
Thief River Falls	Mnet	263	$4,000	$1,000	$410	$17,621	$23,031	$22,031
Virginia	MnDOT	179	$4,000	$1,000	$410	$11,993	$17,403	$16,403
Willmar	Mnet	97	$4,000	$1,000	$410	$6,499	$11,909	$10,909
Willmar	MnDOT	97	$4,000	$1,000	$410	$6,499	$11,909	$10,909
Windom	MnDOT	124	$4,000	$1,000	$410	$8,308	$13,718	$12,718

LIQUIDATED DAMAGES SCHEDULE FOR METRO AREA DARK FIBER MILESTONES (§16.3(a)(ii))

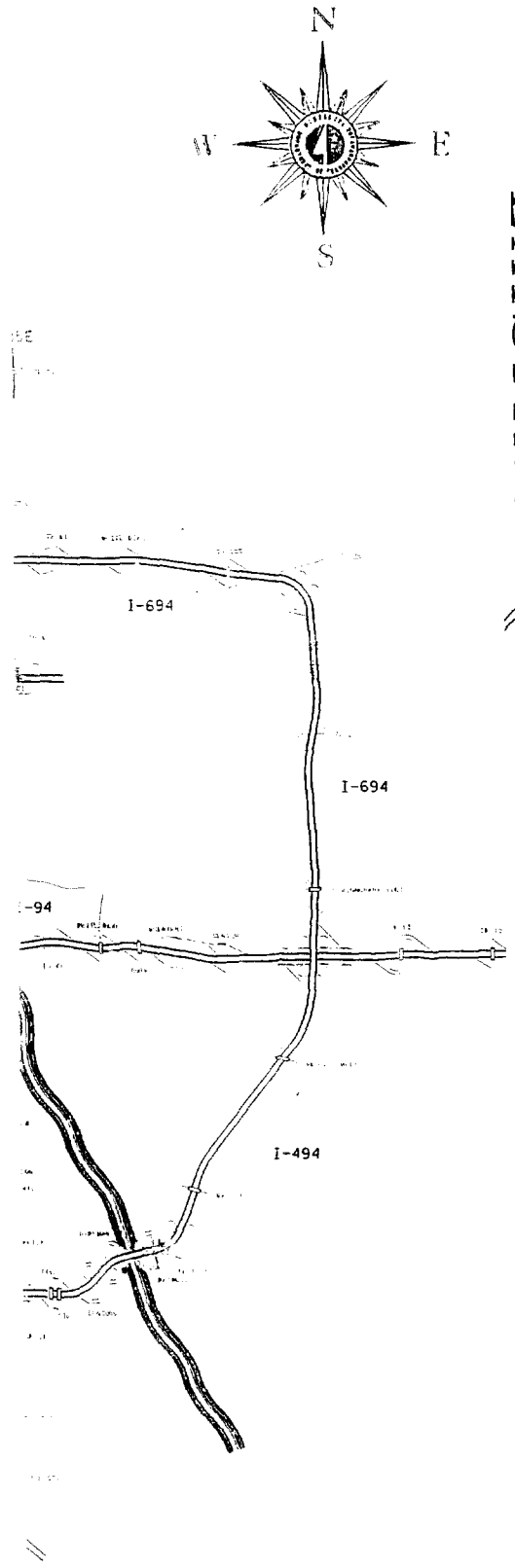
	Metro Mileage	LD per mile per day
Year 1	Per parties' agreement under §10.6	$50
Year 2	Per parties' agreement under §10.6	$50
Year 3	Per parties' agreement under §10.6	$50

EXHIBIT G

Schedule and Maps for TMC Buildout

(Attached)

EXISTING TRAFFIC MANAGEMENT SYSTEM



COAX

1996 FIBER CONST. LET.

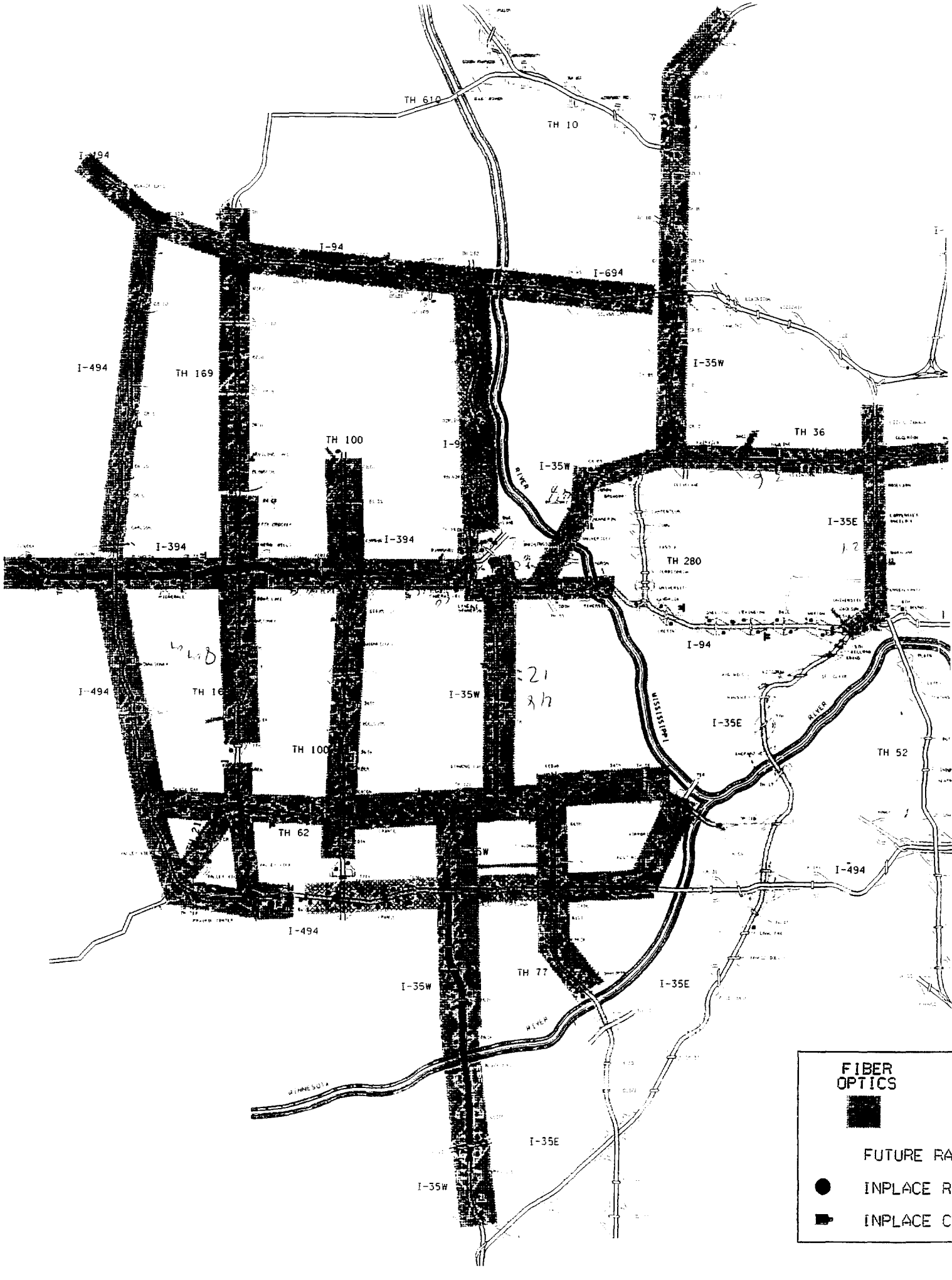
LOOPS

MP METER (UNDER CONSIDERATION)

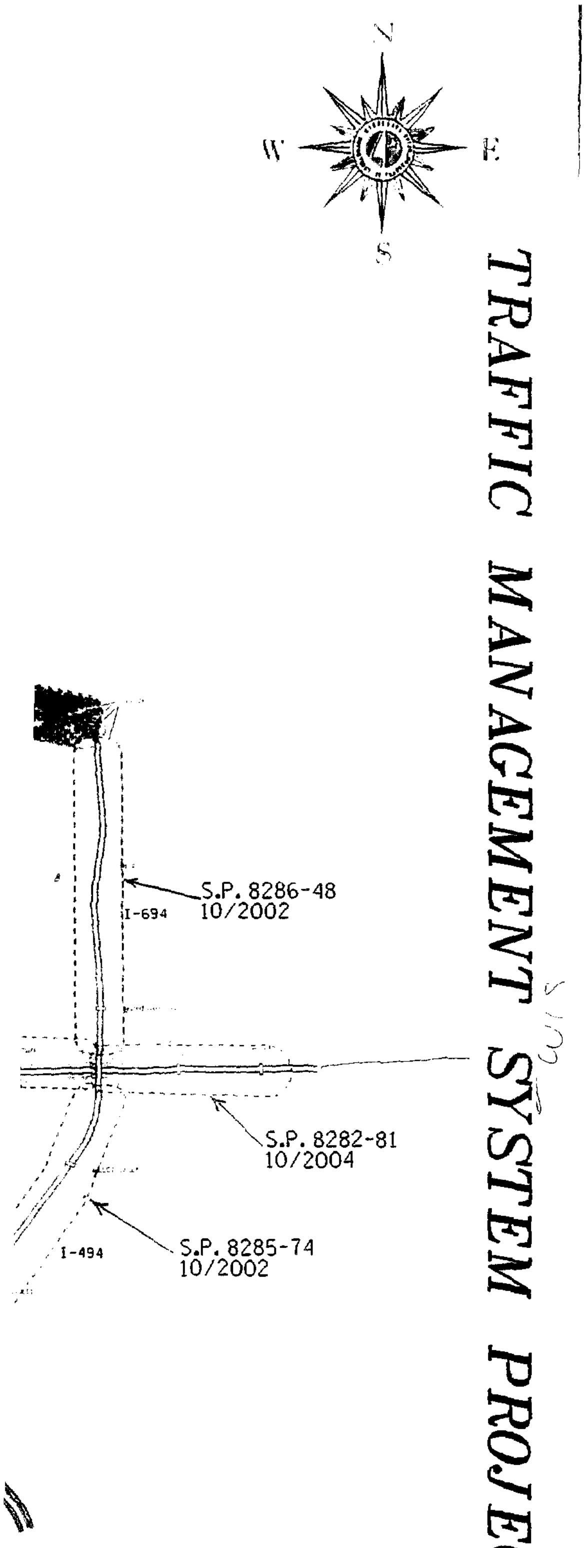
MP METER

OSED CIRCUIT TELEVISION

APRIL 1996


TH 610
TH 10
I-94
I-694
I-494
TH 169
I-35W
TH 36
TH 100
I-394
TH 280
I-35E
TH 52
TH 62
TH 77
MISSISSIPPI
RIVER
MINNESOTA
FIBER OPTICS
FUTURE RAI
INPLACE RA
INPLACE CL

TRAFFIC MANAGEMENT SYSTEM PROJECT LETTINGS



CONSTRUCTION YEAR

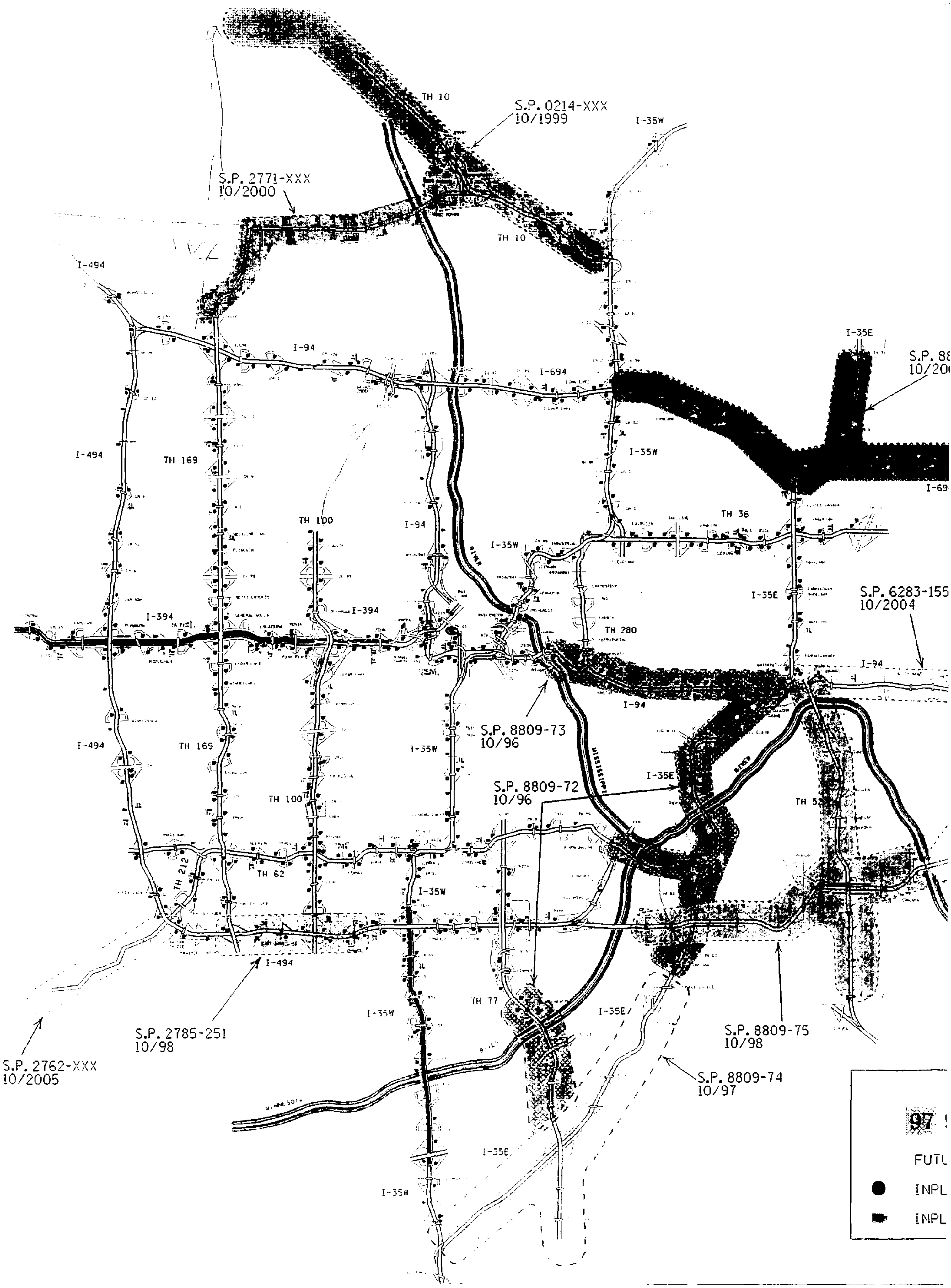
99 2000 2001 2002 2003 2005 2006

RAMP METER (UNDER CONSIDERATION)

E RAMP METER

E CLOSED CIRCUIT TELEVISION

APRIL 1996



S.P. 0214-XXX
10/1999
TH 10
S.P. 2771-XXX
10/2000
I-35W
I-494
I-94
I-694
I-35E
S.P. 88
10/20
TH 169
TH 100
I-394
TH 36
TH 280
S.P. 6283-155
10/2004
I-35E
S.P. 8809-73
10/96
S.P. 8809-72
10/96
TH 62
TH 212
TH 77
S.P. 2785-251
10/98
S.P. 2762-XXX
10/2005
S.P. 8809-75
10/98
S.P. 8809-74
10/97
97
FUTU
INPL
INPL

EXHIBIT H

Utility Accommodation Policy

(Attached)

SUBMIT 5 (FIVE) COMPLETED FORMS WITH SKETCHES TO:

U' Engineer - Room 715N
M. ota Department of Transportation
Transportation Building
395 John Ireland Blvd.
St. Paul, MN 55155

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

APPLICATION FOR UTILITY PERMIT ON TRUNK HIGHWAY RIGHT OF WAY

INSTRUCTIONS TO APPLICANT

1. ***No*** *photocopies of application*
2. *Only page one of each form is to be completed*
3. *Sign all five completed forms*

Reference County	Trunk Highway No.	Company Project No.
☐ New Facility ☐ Replacement Facility		Agreement No.

Application is hereby made for permission to place, construct and thereafter maintain a _____

_____ along or across Trunk Highway No. _____

from _____

to _____

_____ feet from center line on the _____ (east, west, north or south) side of the trunk highway as shown on the attached sketch.

I. AERIAL CONSTRUCTION (Check appropriate box)

- ☐ Single pole
- ☐ H-Frame
- ☐ Single pole & H-Frame
- ☐ Steel tower
- ☐ Other _____

- ☐ Open wire
- ☐ Cable
- ☐ Vertical
- ☐ Cross-arm
- ☐ Vertical & cross-arm

LIGHTING

Mounting Height _____
Mast Arm Length _____
Type of Lamp _____
Watts _____
Poles-Breakaway _____ Non-Breakaway _____

Voltage	Number of Conductors	Size of Conductors

Minimum height of conductor: _____ ft. along highway _____ ft. at crossings over highway

II. UNDERGROUND CONSTRUCTION

☐ Direct buried

Will Facility be attached to a bridge?
☐ Yes ☐ No

Vc	Number of Conductors	Size of Conductors	Depth

CONDUIT

- ☐ Plastic
- ☐ Multiple tile
- ☐ Transite
- ☐ Clay tile
- ☐ Sectional concrete
- ☐ Steel pipe
- ☐ Other _____

Max. Operating Pressure _____
Wall thickness _____
Grade _____
Class _____
Size _____
Depth _____
Number _____

CASING

- ☐ Steel pipe
- ☐ Sectional concrete
- ☐ Other _____

Wall thickness _____
Grade _____
Class _____
Size _____

METHOD OF INSTALLING UNDER ROADBEDS (if open trench, explain why necessary)

☐ Jacking ☐ Boring ☐ Pneuma Gopher ☐ Open trench ☐ Other _____

III. EXTENT & LOCATION OF TREE TRIMMING AND/OR CLEARING:

IV.

Work to start on or after _____

and to be completed on or before _____

IV. The applicant, in carrying on all of the work mentioned above or referred to in its application and in the Permit for construction issued therefore, shall strictly conform to the terms of the Permit, and the Rules of the State of Minnesota as set forth in Minnesota Rules 1983 as of July 31, 1983 together with the Special Provisions, all of which are made a part hereof. The applicant specifically agrees to be bound hereby. The applicant shall also comply with the regulations of all other governmental agencies for the protection of the public. The work shall be accomplished in a manner that will not be detrimental to the highway and that will safeguard the public.

Dated this _____ day of _____, 19 _____.

Applicant _____
Name of Utility making application

Address _____

City _____

State _____ Zip _____

Telephone ( ) _____

By _____
Name Print or Type Title

Signature _____

MINNESOTA RULES
1983
Adopted as of July 31, 1983
UTILITIES EQUIPMENT

8810.3100 DEFINITIONS.

Subpart 1. **Interstate highways.** Under this order "interstate highways" shall mean all trunk highways which are a part of the interstate system.

Subp. 2. **Noninterstate highway.** Under this order "noninterstate highways" shall mean all trunk highways which are not a part of the interstate system.

Subp. 3. **Trunk highways.** Under this order "trunk highways" shall mean all trunk highways including those which are a part of the interstate system.

Subp. 4. **Utility.** Under this order "utility" shall mean and include all privately, publicly, or cooperatively owned communication lines and facilities, any systems, lines, and facilities for the distribution and transmission of electrical energy, oil, gas, water, sewer, steam, and other pipe lines, railways, ditches, flumes, or other structures which under the laws of this state or the ordinance of any village or city may be constructed, placed, or maintained across, along or on trunk highway right-of-way. Dependent upon the meaning intended in the context, "utility" shall also mean the utility company, inclusive of any wholly owned subsidiary.

Statutory Authority: MS s 161.45

8810.3200 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of parts 8810.3100 to 8810.3600 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in the Laws of Minnesota 1959, chapter 500, article II, section 45 (Minnesota Statutes, section 161.45) with reference to the placing, constructing, reconstructing, and maintaining of utilities across, along, upon or under the right-of-way of trunk highways.

Subp. 2. **Scope.** The scope of parts 8810.3100 to 8810.3600 is confined within the framework of and consistent with the Laws of Minnesota 1959, chapter 500, article II, section 45.

Statutory Authority: MS s 161.45

8810.3300 PERMITS.

Subpart 1. **Construction.** Except as otherwise permitted, utility construction and relocation on trunk highway right-of-way shall not be commenced until an application for a permit for construction has been made and such permit granted. The permit for construction sketch shall show the location of the proposed utility with reference to pertinent features such as the right-of-way lines, curb lines, trunk highway center line, etc. A copy of the sketch shall be provided for each copy of such permit. Prints of trunk highway right-of-way maps available upon request from the Road Plans Information Office, Department of Transportation Building, Saint Paul, Minnesota 55155.

Subp. 2. **Maintenance.** The utility shall obtain a work permit from the office of the assistant district engineer, maintenance, prior to performing service and maintenance operations on the interstate highways and shall also obtain a work permit prior to performing service and maintenance operations on the noninterstate highways when such operations require opening and disturbing the surface of the right-of-way thereof. In all other instances the utility shall notify the office of the assistant district engineer, maintenance, prior to performing service and maintenance operations on the non interstate highways which interfere with the normal flow of traffic thereon. However, the company may perform service and maintenance operations on the trunk highways including opening and disturbing the surface of the right-of-way without a work permit in those instances where an emergency exists that is dangerous to the life or safety of the public and which requires immediate repair. The utility upon knowledge of such an emergency shall immediately notify the State Patrol Division. The utility shall

all claims for damages, actions, or causes of action arising out of the work to be done herein and the continuing uses by the utility, including but not limited to the placing, constructing, reconstructing, maintaining, and using of said utility under this application and permit for construction.

Subp. 7. **No easement.** The work permit or permit for construction as issued does not in any way imply an easement on private property.

Statutory authority: MS s 161.45

8810.3400 STANDARDS FOR WORK CONDUCTED UNDER PERMIT.

Subpart 1. **Trees, brush, and vegetation.** At the time of construction of the utility and at the times of subsequent maintenance, prior approval shall be obtained from the district engineer or his authorized representative for the cutting and trimming of trees within the trunk highway right-of-way. Where ever trees are cut the resulting stumps shall be removed unless otherwise provided in the special provisions of the permit for construction. Any holes caused by stump removal shall be backfilled, the area leveled, and all materials associated therewith disposed of outside the trunk highway right-of-way. The utility shall advise the district engineer or his authorized representative at least 48 hours in advance of its intent to start clearing and grubbing operations so that the proper supervision can be provided.

Burning or disking operations and/or the use of chemicals to control or kill trees, brush, and other vegetation is prohibited without prior approval from the assistant district engineer, maintenance.

Subp. 2. **Waterways.** All waterways and lines of drainage shall remain operative.

Subp. 3. **Topsoil and sod.** Wherever topsoil and sod are disturbed they shall be replaced and maintained satisfactorily until the turf is established.

Subp. 4. **Existing utility facilities.** The utility facility and installation shall not interfere with any existing utility facilities on the trunk highway right-of-way.

Subp. 5. **Warning devices.** When necessary, barricades, warning devices and flagmen shall be provided by the utility during all phases of their construction and maintenance operations on the trunk highway right-of-way.

Subp. 6. **Restoration to original condition.** Upon completion of an installation, the utility shall restore the trunk highway right-of-way to its original condition. The utility shall then notify the office of the assistant district engineer, maintenance, or project engineer of the completion of the work so that inspection can be made to determine its acceptability.

Subp. 7. **Conformity.** The installations shall be made in conformity with all applicable laws, rules, and codes covering said installations. All installations shall be made in conformity with rules of governmental agencies for the protection of the public.

Statutory Authority: MS s 161.45

8810.3500 AERIAL LINES.

There shall be only a single pole line on the trunk highway right-of-way on either side of the center line thereof, unless otherwise authorized in the special provisions of the permit for construction.

Longitudinal installations on noninterstate trunk highways shall normally be located in the outer five feet of the right-of-way. At crossings of the noninterstate trunk highway, poles shall be placed at a minimum of 30 feet from the shoulder lines of the through roadbeds unless right-of-way widths are prohibitive to such location.

Unless clearly indicated on the permit for construction sketch, the location of all brace poles, anchors, and anchor poles within the

traveling public and shall cooperate fully with the State Patrol Division to that end. The utility in such an event will request a work permit from the office of the assistant district engineer, maintenance, not later than the second working day thereafter when a work permit would ordinarily have been required but for the emergency.

Subp. 3. **Orders to make improvements.** If at any time the state of Minnesota, acting through its commissioner of transportation, shall deem it necessary to make any improvements or changes on all or any part of the right-of-way of the trunk highway which affect a utility located on trunk highway right-of-way, then and in such event, the owner of the utility shall within 15 days after written notice from the commissioner of transportation or his authorized agent, proceed to alter, change, vacate, or remove said utility from the trunk highway right-of-way so as to conform to said trunk highway changes and as directed by the commissioner of transportation. Such work shall be done without any cost whatsoever to the state of Minnesota except as otherwise provided by law or agreement and shall be completed within the date specified in said written notice, which date shall be reasonable under the circumstances. The utility shall assume all liability and save the state of Minnesota harmless from any and all claims of damage of any nature whatsoever occasioned by reason of not having removed said utility within the time specified in said notice. Notwithstanding the provisions of parts 8810.3100 to 8810.3600, the state may reimburse a municipality for the cost of the first relocation of a municipally owned utility located within the limits of a municipal street at the time that the street was taken over by the State as a trunk highway, when such relocation is required by construction or reconstruction of the trunk highway.

Subp. 4. **Along interstate highways.** Utilities along interstate highways shall be located outside the control-of-access lines except as outlined below. Where the control-of-access lines coincide with the right-of-way lines, the utilities shall generally be located on private property. Where the control-of-access lines and right-of-way lines do not coincide, utilities may in general be located in the area between them. All utilities shall be serviced and maintained without access from the ramps, loops, and through traffic roadbeds. Utilities may be serviced from frontage roads and roads other than another interstate highway which cross either over or under the interstate highway. At aerial crossings of an interstate highway, supporting poles may be located on interstate highway right-of-way if they are a minimum of 30 feet beyond the shoulders of all through traffic roadbeds; however, in no event shall they be located in a median unless its width is 80 feet or more. Manholes and other points of access to underground crossings may be permitted on the interstate highway right-of-way only when located outside the shoulders of the through traffic roadbeds, loops, or ramps. The restrictions of this subpart shall not apply to utility lines which service facilities required for operating the interstate highway.

There may be extreme cases where, under strictly controlled conditions, a utility may be permitted inside the control-of-access lines along an interstate highway. In each case there must be a showing that any other utility location is extremely difficult and unreasonably costly to the utility consumer, that the installation on the right-of-way of the interstate highway will not adversely affect the design, construction, stability, traffic safety, or operation of the interstate highway and that the utility can be serviced without access from through traffic roadbeds, loops, or ramps.

Subp. 5. **Deposit, bond, or undertaking.** The commissioner of transportation may require the utility, or its contractor, to furnish a deposit in the form of a certified check, a surety bond or corporate undertaking in favor of the state of Minnesota, commissioner of transportation, for any expense incurred by the state in the repairing of damage to any portion of the trunk highway right-of-way caused by work performed under a work permit or a permit for construction, including any out of the ordinary engineering supervision and inspection expense provided by the state. In those instances wherein a deposit is required, the amount of the deposit shall be specified in the special provisions of the permit. If a check is furnished, any moneys remaining over and above such expense shall be returned to the applicant.

Subp. 6. **Liability.** Except for the negligent acts of the state, its agents, and employees, the utility shall assume all liability for, and save the state, its agents and employees, harmless from, any and district engineer or his authorized representative prior to actual installation.

In those instances in which a utility is issued a permit or permits for construction on both sides of the trunk highway right-of-way in a given area such permit is conditioned upon the utility subsequently providing joint use to other utilities upon reasonable terms mutually agreeable to the utilities.

Statutory Authority: MS s 161.45

8810.3600 UNDERGROUND LINES.

All crossings of the roadbeds of the trunk highways shall be made by boring inside a casing or carrier pipe, or by jacking, unless this procedure is modified in the special provisions of the permit for construction. The auger shall not lead the casing or carrier pipe by more than one inch. Open trenching shall be restricted to the area from five feet beyond shoulder to the right-of-way line except as modified in the special provisions of the permit for construction.

When pipes with bells and flanges are installed, the crossings of the roadbeds of trunk highway shall be made by boring inside a conduit, as provided in the preceding paragraph, of jacking a conduit of sufficient diameter to permit threading the carrier pipe through it.

All voids caused by jacking or boring shall be filled by pressure grouting. The grout material shall consist of a sand-cement slurry of at least two sacks of cement per cubic yard and a minimum of water to assure satisfactory placement.

The underground utilities shall be so installed as virtually to preclude any necessity for disturbing the roadbeds to perform maintenance operations.

Underground installations shall be accomplished without damaging or destroying the principal root structure of specimen trees.

Statutory Authority: MS s 161.45

NOTE:

As used in Minnesota Rules, Utilities Equipment, part 8810.3100 Definitions, Subpart 1, interstate highways shall include all Interstate Highways and Federal Aid Freeways.

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

Attn:

Utility Permit

Reference: Control Section _____ T.H. _____

In accordance with Minnesota Statutes Section 161.45, Minnesota Rules Section 8810, and this application, a Utility Permit for construction is granted to:

_____

to place, construct and thereafter maintain a:

_____

on or across, the right of way of Trunk Highway No. _____ in the location shown on the sketch which is a part of the application, or in a location specified by the Department of Transportation in the attached Special Provisions.

Recommended for approval:

_____
District

_____
(Date)

Approved by:

_____
Division Engineer
Federal Highway Administration

_____
(Date)

Dated this _____ day of _____ 19 ___

Commissioner of Transportation
Transportation Building
St. Paul, Minnesota 55155

By _____
Utilities Engineer

COPIES
Applicant
Utilities Engineer
District Engineer _____
Assistant District Engineer -
Maintenance _____
Project Engineer _____

Permit No. _____ _____ _____ _____

Amount of Surety Bond Required

_____

Mn/DOT POLICY
POSITION STATEMENT

Date: Date: July 27, 1990

Reference: Highways No. 90-1
Accommodation of Utilities
on Highway Right of Way

Position Statement:

The accommodation of utility facilities on Minnesota Trunk Highway right of way is permitted by *Minnesota Statutes* and *Rules*. It is in the public interest for utility facilities to be accommodated on the right of way of Trunk Highways, including local roads and streets receiving Federal aid, when use and occupancy of the right of way does not interfere with the free safe flow of traffic, or otherwise does not impair the highway or its visual quality, and does not conflict with any provision of Federal, State, or local law, rule, regulation, or the Guidelines and Procedures adopted under this policy.

Background:

This Policy Position Statement and the Guidelines and Procedures which follow were developed in accordance with: *Minnesota Statutes*, Section 161.45 (1988); *Minnesota Rules*, Parts 8810.3100 through 8810.3600 (1989); *Code of Federal Regulations*, Title 23, Part 645, Subparts A and B (1985); American Association of State Highway and Transportation Officials (AASHTO) publications entitled: *A Guide for Accommodating Utilities within Highway Right of Way* (dated 1981), and *A Policy on the Accommodation of Utilities within Freeway Rights of Way (1989)*. See also: *Minneapolis Gas Company v. Zimmerman*, 253 Minn. 164, 91 N.W. 22, 642 (1958).

LEONARD W. LEVINE, COMMISSIONER

Any questions regarding this position statement should be directed to:

Robert H. Cartford, Director of Pre-Letting Services, Office of Technical Support, Technical Services Division, 716 Transportation Building, St. Paul, MN 55155. Phone: (612) 296-3268.

Mn/DOT POLICY GUIDELINE

Date: July 27, 1990

Reference: Highways No. 90-1-G-1
Permits for Accommodation of Utilities on Highway Right of Way

Guideline:

Under Minnesota law and rules it is necessary to obtain a utility permit in order to place utilities on Minnesota trunk highway right of way. Examples of utilities contemplated in Minnesota law are: electric transmission, telephone or telegraph lines, pole lines, community antenna television lines, railways, ditches, sewers, water, heat or gas mains, gas and other pipe lines, flumes, or other structures which, under the laws of Minnesota or the ordinance of any city, may be constructed, placed, or maintained across or along any trunk highway, or its right of way. Permits issued by the Minnesota Department of Transportation contain a copy of the current rules under which it is issued. The Procedures which follow supplement these rules and provide internal guidance for Minnesota Department of Transportation employees when reviewing permit applications.

Position Statement Reference:

Highways No. 90-1

Background:

Through the *Code of Federal Regulations* (CFR, Part 645.215 (A)), the U.S. Department of Transportation requires each State to submit a statement to its Division Administrator on the authority of State to regulate such use, and the policies the State employs or proposes to employ for accommodating utilities within the right of way of any highway project receiving federal aid. Position Statement No. 90-1, and the Guidelines and Procedures adopted thereunder form the basis of this submittal.

Douglas H. Differt, Deputy Commissioner

Any questions regarding this guideline should be directed to:

Robert H. Cartford, Director of Pre-Letting Services, Office of Technical Support, Technical Services Division, 716 Transportation Building, St. Paul, MN 55155. Phone: (612) 296-3268.

Date: July 27, 1990
Reference: Highways No. 90-1-P-1

MINNESOTA DEPARTMENT OF TRANSPORTATION PROCEDURES FOR ACCOMMODATION OF UTILITIES ON HIGHWAY RIGHT OF WAY

Issued under: Mn/DOT Policy Position Statement - Highway No. 90-1
Mn/DOT Policy Guideline - Highway No. 90-1

SECTION I. DEFINITIONS

Backfill - Replacement of suitable material compacted, as specified, around and over a pipe, conduit, casing or gallery.

Carrier - Pipe directly enclosing a transmitted fluid (liquid or gas).

Casing - A larger pipe enclosing a carrier.

Clear Zone - The distance from the edge of the traveled lane that must be free of any non-traversable hazard.

Coating - Materials applied to or wrapped around a pipe.

Conduit or Duct - An enclosed tubular runway for protecting wires or cables.

Controlled Access Highway - Any highway, street, or road, including streets within cities, over, from or to which owners or occupants of abutting land or other persons have or are without right of access, and only a controlled right to the easement of access, light, air or view.

Depth - Distance between top of pipe, conduit, casing or gallery and the surface of the roadway or ditch.

Direct Burial - Installing a utility underground without encasement by plowing.

Drain - Appurtenance to discharge liquid contaminants from casings.

Encasement - Structural element surrounding a pipe.

Encroachment - Unauthorized use of highway right of way or easements; examples of which are signs, fences, buildings, utilities, parking, storage, among other things.

Environmentally Sensitive Areas - Environmentally sensitive areas include but are not limited to wet lands, flood plains, archaeological or historic sites, areas with stability or settlement problems, areas with artesian conditions, animal/or plant communities, landscapes or geologic formations with exemplary, unique, rare or threatened/endangered characteristics.

Fiber Optic Cable - A communication cable which contains glass fibers.

Flexible Pipe - A plastic, fiberglass, or metallic pipe having a large ratio of diameter to wall thickness, and which can be deformed without undue stress.

Freeway (Including Interstate Highways) - Divided highway for through traffic with full control of access.

Form 1723 - Application for Permit for Installation of Utilities or Placing an Obstruction on Trunk Highway - This form is used for installation of utility service connections that do not cross the Trunk Highway roadway, miscellaneous guy wires and anchors and to place temporary obstructions on the Right of Way.

Form TP-02525-02 - Application for Utility Permit on Trunk Highway Right of Way - This form is used to request permission to place, construct, reconstruct, and thereafter maintain overhead and underground utility installations and extensions within Trunk Highway right of way, whether longitudinally, oblique, or normal (perpendicular) in relation to the centerline of the highway.

Frontage Road - A local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

Gallery -An underpass for two or more pipelines.

Grout - A cement mortar or a slurry of fine sand or clay.

Highway, Street or Road - A general term denoting a public way for purposes of vehicular travel, including the entire area within the right of way.

Interstate Highway - As used herein shall mean freeway.

Jacket - An enclosure for protecting insulation around a carrier.

Manhole - An opening in an underground system which workers or others may enter for the purpose of making installation, inspections, repairs, connections, and tests.

Median - The portion of a divided highway separating the traveled ways for traffic in opposite directions.

Normal - Crossing at a right angle.

Pavement Structure - The combination of subbase, base course, and surface course placed on a subgrade to support the traffic load and distribute it to the roadway.

Permit - The document by which the Minnesota Department of Transportation regulates and/or gives approval for the use and occupancy of highway right-of-way by utility facilities or private lines.

Pipe - A tubular product made as a production item for sale as such. Cylinders formed from plate in the course of the fabrication of auxiliary equipment are not pipe as defined herein.

Pipeline - A continuous carrier used primarily for the transportation of liquids, gases, and/or solids from one point to another using either gravity or pressure flow.

Plowing - Direct burial of utility lines by means of a "plow" type mechanism which breaks the ground, places the utility line and closes the break in the ground in a single operation.

Pressure - Relative internal pressure in PSIG (pounds per square inch gauge).

Private Lines - Privately owned facilities which convey or transmit the commodities as defined in the utility facility definition, but devoted exclusively to private use.

Right of Way - A general term denoting land, property, or interest therein usually in a strip and acquired for (or devoted to) transportation purposes.

Roadside - A general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

Roadway - The portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

Roadbed - As used herein means roadway.

Safety Rest Area - A roadside area, with parking facilities separated from the roadway, provided for motorists to stop and rest for short periods of time. It may include drinking water, toilets, tables, and benches, telephone, information, and other facilities for travelers.

Scenic Overlook - A roadside area provided for motorists to stop their vehicles beyond the shoulder, and primarily used for viewing the scenery in safety.

Scenic Quality - Environmental factors which influence the aesthetic and physical characteristics of the surrounding area.

Sleeve - A short tubular enclosure through a structure element for passing conduit or pipe.

Specimen Trees - Historic or otherwise significant trees from the standpoint of the adjacent residents or the traveling public.

State - State of Minnesota.

Trenched - Installed in a narrow open excavation.

Trunk Highways - Includes all roads established or to be established under the provisions of Article 14 Section 2 of the *Constitution of the State of Minnesota*.

Untrenched - Installed without breaking ground or pavement surface, such as by jacking and/or boring.

Utility Facility (Utility) - Privately, publicly or cooperatively owned line, facility or system for producing, transmitting or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any substantially owned or controlled subsidiary. For the purposes of this part, the term includes those utility-type facilities which are owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term utility includes those facilities used solely by the utility which are a part of its operating plant. (See *Minn. Stat.*, Sec. 161.45 and 23 CFR 645.207, M.).

Vent - Appurtenance to discharge gaseous contaminants from casings.

SECTION II. APPLICATION

These procedures apply to all trunk highways under the jurisdiction of the Minnesota Commissioner of Transportation.

Should the *Laws of the State of Minnesota*, or *Minnesota Rules* adopted thereunder, or industry codes prescribe a higher degree of protection than is provided in these procedures, the higher degree of protection shall prevail.

The procedures concern the location and manner by which utility installations are to be made, not only within the right of way of Trunk Highways, but also local roads and streets (where federal-aid is to be used), and the measures (reflecting sound engineering principles) to be taken by highway authorities to preserve and protect the integrity and visual qualities of the highway and the safety of highway traffic.

The procedures apply to all utility facilities - including any privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications (as defined in *Minnesota Statutes*) - including but not limited to: electrical, power, natural gas, cable television, petroleum products, water, steam, heat, waste, storm water not associated with the highway facility, or any other similar commodity, including any fire or police signal system or street lighting system directly or indirectly serving the public.

The procedures allow utilities to be accommodated, adjusted or relocated within the right of way of highways under the jurisdiction of the Commissioner of Transportation, when legally entitled to use public highways. The procedures apply to underground, surface and overhead placement, either singly, jointly or in combination including bridge attachments.

The procedures allow the Commissioner of Transportation to establish guidelines for relocating utilities on safety projects.

Private lines are allowed only to cross trunk highway right of way. Longitudinal installations are not permitted.

SECTION III. PERMIT

Prior to initiating any utility work upon trunk highway right of way a permit MUST first be secured. The permit, or a copy of the permit, must be in the possession of the utility contractor at all times while working on Trunk Highway right of way.

Three types of Minnesota Department of Transportation permits issued are:

A. Short Form No. 1723 entitled *Application for Permit for Installation of Utility or for Placing of Obstructions on Trunk Highway.*

B. Drainage Form 30795-03 entitled *Application for Drainage Permit.*

C. Long Form No. 2525 entitled *Application for Utility Permit on Trunk Highway Right of Way.*

The Short Form and Drainage Form applied for and are approved in the District. The Assistant District Engineer Maintenance issues these permits. The Short Form serves as a work permit. The Drainage Form must comply with *Mn/DOT Technical Memorandum No. 86-25-ENV-1, Wetlands.*

The Long Form is issued from the Minnesota Department of Transportation, Technical Services Division, Preletting Services Section with the approval of the District Engineer (or authorized Representative).

In order for a permit to be valid it shall be signed by:

A. An authorized person representing the company or the utility,

B. the State's District Engineer (or Authorized Representative), and

C. the State's Director, Preletting Services acting for the Commissioner of Transportation.

The Federal Highway Administration may also sign if the permit pertains to interstate highways, scenic easements or private lines.

Federal agency review.

When a utility files a notice or makes an individual application or request to the State to use or occupy the right of way of a Federally aided highway, the State is not required to submit the matter to the U.S. Department of Transportation, Federal Highway Administration (F.H.W.A.) for prior concurrence. The State's authority, by mutual agreement with the local Division Office of the Federal Highway Administration, is manifested in the form of an approved Utility Permit (*CFR Title 23 645.215(d)*), except under the following circumstances:

A. The proposed installation is not in accordance with federal rules or the Minnesota Department of Transportation's utility accommodation policy, as approved by the FHWA for use on Federal-aid highway projects.

B. The proposed installation is for a longitudinal installation of private lines.

Application.

The application for a Utility Permit on trunk highway right of way shall include the pertinent information regarding:

A. Highway number,
B. Location of the facility,
C. Type of construction (aerial or underground),
D. Voltage,
E. Number and size of conductors,
F. Conduit (type and size),
G. Casing (type and thickness),
H. Method of installation for underground facilities,
I. Vertical and horizontal clearances,
J. Tree clearances and trimming required,
K. Contemplated starting and completion dates.

The applicant shall agree to comply with the following environmental measures:

A. Protection measures required for specimen trees and environmentally sensitive areas.
B. Steps required to preserve the scenic quality of the highway.

The applicant shall agree to the following:

A. The applicant shall agree to strictly conform to the terms of the permit, "Minnesota Rules", together with the Special Provisions including sketches all of which will be made a part of the Permit for Construction.
B. The applicant shall also agree to comply with relevant regulations of all other governmental agencies required for the protection of the public.
C. The applicant shall agree that all work will be accomplished in a manner that will not be detrimental to the highway and that will safeguard the public.
D. Underground systems. For any underground system, complete information regarding the facility and the purpose it serves must also be stated.
E. Each copy of the permit must include a photo reproducible sketch giving the location relative to the highways center line and/or right of way line, applicable control of access lines and access points, in-place utility facilities (including highway drainage), identifying features (including stationing on the highway) when available.

Plan Review.

Prior to issuance of the permit, sketches are checked as well as pertinent information regarding the type of facility and compliance with codes, rules and laws pertaining to the facility.

Certification.

On completion of the installation, two copies of the Certificate of Completion and "as built" plans must be sent to the Assistant District Engineer, Maintenance.

SECTION IV. DESIGN, GENERAL

In addition to those requirements found in *Minnesota Rules, Parts 8810.3100 through 8810.3600*, the following minimum requirements shall apply. The most restrictive requirements shall be used:

Electric power and communication facilities.

Electric power and communication facilities should conform with the currently applicable *National Electrical Safety Code*. (Depending upon the installation the Department may have more restrictive height requirements).

Water lines.

Water lines should conform with the currently applicable *Specifications of the American Water Works Association.*

Pressure pipelines.

Pressure pipelines should conform with the currently applicable sections of the *Standard Code of Pressure Piping of the American National Standards Institute* and applicable industry codes.

Liquid petroleum pipelines.

Liquid petroleum pipelines should conform with the currently applicable recommended practice of the *American Petroleum Institute* for pipeline crossings under railroads and highways.

Hazardous materials.

Any pipeline carrying hazardous materials shall conform to the rules and regulations of the U.S. Department of Transportation governing the transportation of such materials, including *C.F.R., Title 49, Parts 192, 193 & 195.*